

SUBPART B—DISPOSAL OF SURPLUS COMMODITIES

[As Amended Through P.L. 107-223, August 21, 2002]

1. SECTION 416 OF THE AGRICULTURAL ACT OF 1949

[DISPOSITION OF COMMODITIES TO PREVENT WASTE]

SEC. 416.⁴¹⁶⁻¹ [7 U.S.C. 1431] (a) In order to prevent the waste of commodities whether in private stocks or⁴¹⁶⁻² acquired through price-support operations by the Commodity Credit Corporation before they can be disposed of in normal domestic channels without impairment of the price-support program or sold abroad at competitive world prices, the Commodity Credit Corporation is authorized, on such terms and under such regulations as the Secretary may deem in the public interest: (1) upon application, to make such commodities available to any Federal agency for use in making payment for commodities not produced in the United States; (2) to barter or exchange such commodities for strategic or other materials as authorized by law; (3) in the case of food commodities to donate such commodities to the Bureau of Indian Affairs and to such State, Federal, or private agency or agencies as may be designated by the proper State or Federal authority and approved by the Secretary, for use in the United States in nonprofit school-lunch programs, in nonprofit summer camps for children,⁴¹⁶⁻³ in the assistance of needy persons, and in charitable institutions, including hospitals and facilities, to the extent that they serve needy persons (including infants and children).⁴¹⁶⁻⁴ In the case of (3) the Secretary shall obtain such assurance as he deems necessary that the recipients thereof will not diminish their normal expenditures for food by reason of such donation. In order to facilitate the appropriate disposal of such commodities, the Secretary may from time to time estimate and announce the quantity of such commodities which he anticipates will become available for distribution under (3). The Commodity Credit Corporation may pay, with respect to commodities disposed of under this subsection, reprocessing, packaging, transporting, handling, and other charges accruing up to the time of their delivery to a Federal agency or to the designated State or pri-

⁴¹⁶⁻¹ The provisions of this sec. were substituted for the previous provisions by sec. 302 of the Agricultural Trade Development and Assistance Act of 1954, P.L. 480, 83rd Cong., 68 Stat. 458, July 10, 1954. See sec. 9 of P.L. 85-931, 72 Stat. 1792, Sept. 6, 1958, providing for distribution of commodities under sec. 416 to overseas areas under the jurisdiction or administration of the United States.

Sec. 502 of the Agricultural Programs Adjustment Act of 1984, P.L. 98-258, 98 Stat. 137, April 10, 1984, amended sec. 416 by adding subsecs. (b) and (c) and by redesignating the original sec. 416 as subsec. (a), and by substituting the word "subsection" for "section" in each place that word appeared in the previous text.

For general statutory references to section 416, see notes following section.

⁴¹⁶⁻² The words "whether in private stocks or" were added by P.L. 86-108, 73 Stat. 250, July 24, 1959. See P.L. 86-756, 74 Stat. 899, Sept. 13, 1969, authorizing the use of surplus foods for training home economics students.

⁴¹⁶⁻³ The words "in nonprofit summer camps for children" were added by P.L. 85-482, 72 Stat. 286, July 2, 1958.

⁴¹⁶⁻⁴ Sec. 1771(b)(2) of the Food, Agriculture, Conservation, and Trade Act of 1990, P.L. 101-624, 104 Stat. 3807, Nov. 28, 1990, amended sec. 416(a)(3) by striking "hospitals, to the extent that needy persons are served" and inserting "hospitals and facilities, to the extent that they serve needy persons (including infants and children)".

⁴¹⁶⁻⁵ This sentence was added by the Agricultural Act of 1956, P.L. 84-540, 70 Stat. 203, May 28, 1956.

vate agency. In addition, in the case of food commodities disposed of under this subsection, the Commodity Credit Corporation may pay the cost of processing such commodities into a form suitable for home or institutional use, such processing to be accomplished through private trade facilities to the greatest extent possible.⁴¹⁶⁻⁵ For the purpose of this subsection the terms “State” and “United States” include the District of Columbia and any Territory or possession of the United States.

Dairy products acquired by the Commodity Credit Corporation through price support operations may, insofar as they can be used in the United States in nonprofit school lunch and other nonprofit child feeding programs, in the assistance of needy persons, and in charitable institutions, including hospitals, to the extent that needy persons are served, be donated for any such use prior to any other use or disposition.⁴¹⁶⁻⁶ Notwithstanding any other provision of law, such dairy products may be donated for distribution to needy households in the United States and to meet the needs of persons receiving nutrition assistance under the Older Americans Act of 1965⁴¹⁶⁻⁷ [(42 U.S.C. 3001 et seq.)].

(b)⁴¹⁶⁻⁸ (1) The Secretary, subject to the requirements of paragraph (10), may furnish eligible commodities for carrying out pro-

⁴¹⁶⁻⁶ This sentence was added by P.L. 91-233, 84 Stat. 199, April 17, 1970.

⁴¹⁶⁻⁷ This sentence was added by sec. 110 of the Omnibus Budget Reconciliation Act of 1982, P.L. 97-253, 96 Stat. 766, Sept. 8, 1982. Sec. 1109 of the Food Security Act of 1985, P.L. 99-198, 99 Stat. 1467, Dec. 23, 1985, struck out two sentences at the end of sec. 416(a), which had also been added by sec. 110 of the Omnibus Budget Reconciliation Act of 1982, P.L. 97-253, 96 Stat. 766, Sept. 8, 1982.

For the former text of these sentences, see p. 32-12 of the Agriculture Handbook No. 476, as of Jan. 1, 1985. A previous last sentence relating to supplemental security income, which was added by P.L. 92-603, 86 Stat. 1492, Oct. 30, 1972, was repealed by sec. 1302 of the Food and Agriculture Act of 1977. P.L. 95-113, 91 Stat. 979, Sept. 29, 1977, and was never in effect.

⁴¹⁶⁻⁸ Sec. 1109 of the Food Security Act of 1985, P.L. 99-198, 99 Stat. 1467, Dec. 23, 1985, amended sec. 416(b) in its entirety. For the former text of sec. 416(b), see pp. 32-12 through 32-13 of Agriculture Handbook No. 476, as of Jan. 1, 1985.

Sec. 4310 of the Omnibus Trade and Competitiveness Act of 1988 (7 U.S.C. 1691 note; P.L. 100-418) provides that it is the sense of Congress that the total amount of food assistance made available to foreign countries under the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1691 et seq.) and sec. 416(b) should not be less than one-third of the total amount of foreign economic assistance provided for each fiscal year.

Sec. 1110(f)(1) of the Food Security Act of 1985 (7 U.S.C. 1736o(f)(1)) permits the Commodity Credit Corporation to provide for grants or sales on credit terms of commodities made available under this subsec. for use in carrying out sec. 1110 of that Act.

Sec. 403(l)(1)(B) of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1733(l)(1)(B)) provides that subsecs. (b) and (h) of that sec. shall apply to sales of commodities in recipient countries to generate proceeds to carry out projects under this subsec.

Sec. 407(f)(2)(C) of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1736a(f)(2)(C)) requires the President to prepare an annual report concerning the programs and activities implemented under such Act for the preceding fiscal year, including a statement of the amount of agricultural commodities made available to each country pursuant to this subsec.

Sec. 103(c) of the Support for East European Democracy (SEED) Act of 1989 (22 U.S.C. 5413(c); P.L. 101-179) provides that the level of assistance for Poland for fiscal year 1990 under sec. 416(b) and other provisions of law should not be less than \$125,000,000.

Sec. 205 of the Support for East European Democracy (SEED) Act of 1989 (22 U.S.C. 5425; P.L. 101-179) provides that a portion of the agricultural commodities made available for Poland for fiscal years 1990, 1991, and 1992 under sec. 416(b) and other provisions of law may be used to generate Polish currency for certain activities, notwithstanding sec. 416(b)(7).

Sec. 901b(b)(2) of the Merchant Marine Act, 1936 (46 U.S.C. App. 1241f(b)(2)) requires that 25 percent of the gross tonnage of agricultural commodities or the products thereof be transported on United States-flag commercial vessels, including export activity carried out under sec. 416.

Sec. 751(a)(4) of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2000, P.L. 106-78, 113 Stat. 1168, Oct. 22, 1999, defines “covered procurement”, for purposes of that sec. (relating to contracts for procure-

grams of assistance in developing countries and friendly countries under titles II and III⁴¹⁶⁻⁹ of the Agricultural Trade Development and Assistance Act of 1954 [(7 U.S.C. 1721 et seq.)] and under the Food for Progress Act of 1985 [(7 U.S.C. 1736o)], as approved by the Secretary, and for such purposes as are approved by the Secretary. To ensure that the furnishing of commodities under this subsection is coordinated with and complements other United States foreign assistance, assistance under this subsection shall be coordinated through the mechanism designated by the President to coordinate assistance under the Agricultural Trade Development and Assistance Act of 1954 [(7 U.S.C. 1691 et seq.)].

(2) As used in this subsection, the term “eligible commodities” means—

(A) dairy products, wheat, rice, feed grains, and oilseeds acquired by the Commodity Credit Corporation through price support operations, and the products thereof, that the Secretary determines meet the criteria specified in subsection (a); and

(B) such other edible agricultural commodities as may be acquired by the Secretary or the Commodity Credit Corporation in the normal course of operations and that are available for disposition under this subsection, except that no such commodities may be acquired for the purpose of their use under this subsection.

(3)(A) Commodities may not be made available for disposition under this subsection in amounts that (i) will, in any way, reduce the amounts of commodities that traditionally are made available through donations to domestic feeding programs or agencies, or (ii) will prevent the Secretary from fulfilling any agreement entered into by the Secretary under a payment-in-kind program under this Act or other Acts administered by the Secretary.

(B)(i) The requirements of section 403(a)⁴¹⁶⁻¹⁰ of the Agricultural Trade Development and Assistance Act of 1954 [(7 U.S.C. 1733(a))] shall apply with respect to commodities furnished under this subsection. Commodities may not be furnished for disposition to any country under this subsection except on determinations by the Secretary that—

(I) the receiving country has the absorptive capacity to use the commodities efficiently and effectively; and

(II) such disposition of the commodities will not interfere with usual marketings of the United States, nor disrupt world prices of agricultural commodities and normal patterns of commercial trade with developing countries.

(ii) The requirement for safeguarding usual marketings of the United States shall not be used to prevent the furnishing under this subsection of any eligible commodity for use in countries that—

(I) have not traditionally purchased the commodity from the United States; or

ment or processing of certain commodities), as a contract for the procurement or processing of a commodity furnished under, inter alia, this subsec.

⁴¹⁶⁻⁹Sec. 1514(1) of the Food, Agriculture, Conservation, and Trade Act of 1990, P.L. 101-624, 104 Stat. 3662, Nov. 28, 1990, amended para. (1) by striking “title II” and inserting “titles II and III”.

⁴¹⁶⁻¹⁰Sec. 1514(2) of the Food, Agriculture, Conservation, and Trade Act of 1990, P.L. 101-624, 104 Stat. 3662, Nov. 28, 1990, amended para. (3)(B)(i) by striking “401(b)” and inserting “403(a)”.

(II) do not have adequate financial resources to acquire the commodity from the United States through commercial sources or through concessional sales arrangements.

(C) The Secretary shall take reasonable precautions to ensure that—

(i) commodities furnished under this subsection will not displace or interfere with sales that otherwise might be made; and

(ii) sales or barter under paragraph (7) will not unduly disrupt world prices of agricultural commodities nor normal patterns of commercial trade with friendly countries.

(D) If eligible commodities are made available under this subsection to a friendly country, nonprofit and voluntary agencies and cooperatives shall also be eligible to receive commodities for food aid programs in the country.

(4) Agreements may be entered into under this subsection to provide eligible commodities in installments over an extended period of time. In agreements with recipients of eligible commodities under this subsection (including nonprofit and voluntary agencies or cooperatives), subject to the availability of commodities each fiscal year, the Secretary, on request, shall approve multiyear agreements to make agricultural commodities available for distribution or sale by the recipients if the agreements otherwise meet the requirements of this subsection.

(5)(A) Section 406⁴¹⁶⁻¹¹ of the Agricultural Trade Development and Assistance Act of 1954 [(7 U.S.C. 1736)] shall apply to the commodities furnished under this subsection.

(B) The Commodity Credit Corporation may pay the processing and domestic handling costs incurred, as authorized under this subsection, in the form of eligible commodities, as defined in paragraph (2)(A), if the Secretary determines that such in-kind payment will not disrupt domestic markets.

(6) The cost of commodities furnished under this subsection, and expenses incurred under section 406⁴¹⁶⁻¹² of the Agricultural Trade Development and Assistance Act of 1954 [(7 U.S.C. 1736)] in connection with those commodities, shall be in addition to the level of assistance programmed under that Act and shall not be considered expenditures for international affairs and finance.

(7) Eligible commodities furnished under this subsection may be sold or bartered only with the approval of the Secretary and solely as follows:

(A) Sales and barter that are incidental to the donation of the commodities or products.

(B) Sales and barter to finance the distribution, handling, and processing costs of the donated commodities or products in the importing country or in a country through which such commodities or products must be transshipped, or other activities in the importing country that are consistent with providing food assistance to needy people.

(C) Sales and barter of commodities and products furnished to intergovernmental agencies or organizations, insofar as they

⁴¹⁶⁻¹¹ Sec. 1514(3) of the Food, Agriculture, Conservation, and Trade Act of 1990, P.L. 101-624, 104 Stat. 3662, Nov. 28, 1990, amended para. (5)(A) by striking “203” and inserting “406”.

⁴¹⁶⁻¹² Sec. 1514(4) of the Food, Agriculture, Conservation, and Trade Act of 1990, P.L. 101-624, 104 Stat. 3662, Nov. 28, 1990, amended para. (6) by striking “203” and inserting “406”.

are consistent with normal programming procedures in the distribution of commodities by those agencies or organizations.

(D)(i) Sales of commodities and products furnished to non-profit and voluntary agencies, or cooperatives, for food assistance under agreements that provide for the use, by the agency or cooperative, of⁴¹⁶⁻¹³ proceeds generated from such sale of commodities or products for the purposes established in clause (ii) of this subparagraph.

(ii) Proceeds⁴¹⁶⁻¹⁴ generated from partial or full sales or barter of commodities by a nonprofit and voluntary agency or cooperative shall be used—

(I) to transport, store, distribute, and otherwise enhance the effectiveness of the use of commodities and the products thereof donated under this section; and

(II) to implement income generating, community development, health, nutrition, cooperative development, agricultural programs, and other developmental activities. In addition,⁴¹⁶⁻¹⁵ proceeds generated in Poland may also be used by governmental and nongovernmental⁴¹⁶⁻¹⁶ agencies or cooperatives for eligible activities approved by the joint commission established pursuant to section 2226 of the American Aid to Poland Act of 1988 and by the United States chief of diplomatic mission in Poland that would improve the quality of life of the Polish people and would strengthen and support the activities of governmental or⁴¹⁶⁻¹⁷ private, nongovernmental independent institutions in Poland. Activities eligible under the preceding sentence include—

(I) any project undertaken in Poland under the auspices of the Charitable Commission of the Polish Catholic Episcopate for the benefit of handicapped or orphaned children;

(II) any project for the reconstruction, renovation, or maintenance of the Research Center on Jewish History and Culture of the Jagiellonian University of Krakow, Poland, established for the study of events related to the Holocaust in Poland;

(III) any other project or activity which strengthens and supports private and independent sectors of the Polish economy, especially independent farming and agriculture; and⁴¹⁶⁻¹⁸

⁴¹⁶⁻¹³ Sec. 3201(a)(1) of the Farm Security and Rural Investment Act of 2002, P.L. 107-171, 116 Stat. 299, May 13, 2002, amended clauses (i) and (iii) by striking “foreign currency” each place it appears.

⁴¹⁶⁻¹⁴ Sec. 3201(a)(2)(A) of the Farm Security and Rural Investment Act of 2002, P.L. 107-171, 116 Stat. 299, May 13, 2002, amended clause (ii) by striking “Foreign currencies” and inserting “Proceeds”.

⁴¹⁶⁻¹⁵ Sec. 3201(a)(2)(B) of the Farm Security and Rural Investment Act of 2002, P.L. 107-171, 116 Stat. 299, May 13, 2002, amended clause (ii) by striking “foreign currency”.

⁴¹⁶⁻¹⁶ Clause (1) of the matter under the heading “POLAND ASSISTANCE” of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1991, P.L. 101-513, 104 Stat. 2032, Nov. 5, 1990, amended clause (i) by striking out “such” and inserting in lieu thereof “governmental and nongovernmental”.

⁴¹⁶⁻¹⁷ Clause (2) of the matter under the heading “POLAND ASSISTANCE” of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1991, P.L. 101-513, 104 Stat. 2032, Nov. 5, 1990, amended by inserting “governmental or” after “activities of”.

⁴¹⁶⁻¹⁸ The preceding two sentences were added by sec. 2225 of the Omnibus Trade and Competitiveness Act of 1988, P.L. 100-418, Aug. 23, 1988. The left margin of the first new sentence was aligned with the left margin of the clause to effectuate the probable intent of Congress.

Sec. 2223 of the Omnibus Trade and Competitiveness Act of 1988, P.L. 100-418, Aug. 23, 1988, requires the Secretary of Agriculture to donate, under sec. 416(b), for each of the fiscal years 1988 through 1992, 8,000 metric tons of uncommitted stocks of eligible commodities of the Commodity Credit Corporation under an agreement with the Govern-

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(IV) the Polish Catholic Episcopate's Rural Water Supply Foundation.⁴¹⁶⁻¹⁹

(iii) Except as otherwise provided in clause (v), such agreements, taken together for each fiscal year, shall provide for sales of commodities and products for⁴¹⁶⁻²⁰ proceeds in amounts that are, in the aggregate, not less than 10 percent of the aggregate value of all commodities and products furnished, or the minimum tonnage required, whichever is greater, for carrying out programs of assistance under this subsection in such fiscal year. The minimum allocation requirements of this clause apply with respect to commodities and products made available under this subsection for carrying out programs of assistance under titles II and III⁴¹⁶⁻²¹ of the Agricultural Trade Development and Assistance Act of 1954 [(7 U.S.C. 1721 et seq.)], and not with respect to commodities and products made available to carry out the Food for Progress Act of 1985.⁴¹⁶⁻²²

(iv) Proceeds⁴¹⁶⁻²³ generated from the sale of commodities or products under this subparagraph shall be expended within the country of origin within a reasonable length of time, as determined by the Secretary, except that the Secretary may permit the use of proceeds in a country other than the country of origin as necessary to expedite the transportation of commodities and products furnished under this subsection, or to otherwise carry out the purposes of this subsection.⁴¹⁶⁻²⁴

(v) The provisions of clause (iii) of this subparagraph establishing minimum annual allocations for sales and use of proceeds shall not apply to the extent that there have not been sufficient requests for such sales and use of proceeds nor to the extent required under paragraph (3).

(E) Sales and barter to cover expenses incurred under paragraph (5)(a).⁴¹⁶⁻²⁵

ment of Poland that the Government of Poland will sell such commodities and that all the proceeds from such sales will be used by nongovernmental agencies for approved eligible activities in Poland described in sec. 416(b)(7)(D)(ii).

Sec. 2224 of the Omnibus Trade and Competitiveness Act of 1988, P.L. 100-418, Aug. 23, 1988, requires, under certain conditions, that certain Polish currencies be made available for approved eligible activities in Poland described in sec. 416(b)(7)(D)(ii).

Sec. 2226(a) of the Omnibus Trade and Competitiveness Act of 1988, P.L. 100-418, Aug. 23, 1988, requires that the joint commission referred to in sec. 416(b)(7)(D)(ii) be established under an agreement between the United States Government, the Government of Poland, and nongovernmental agencies operating in Poland.

⁴¹⁶⁻¹⁹ Effective October 1, 1994, section 576(b) of the Foreign Operations, Export Financing, and Related Programs Supplemental Appropriations Act, 1994, P.L. 103-306, 108 Stat. 1654, added subclause (IV) and made conforming changes to subclauses (II) and (III).

⁴¹⁶⁻²⁰ See footnote 416-13.

⁴¹⁶⁻²¹ Sec. 1514(5)(A) of the Food, Agriculture, Conservation, and Trade Act of 1990, P.L. 101-624, 104 Stat. 3662, Nov. 28, 1990, amended para. (7)(D)(iii) by striking "title II" and inserting "titles II and III".

⁴¹⁶⁻²² Sec. 1110 of the Food Security Act of 1985, P.L. 99-198, 95 Stat. 1472, Dec. 23, 1985 (7 U.S.C. 1736o).

⁴¹⁶⁻²³ Sec. 3201(a)(3)(A) of the Farm Security and Rural Investment Act of 2002, P.L. 107-171, 116 Stat. 299, May 13, 2002, amended clause (iv) by striking "Foreign currency proceeds" and inserting "Proceeds".

⁴¹⁶⁻²⁴ Sec. 3201(a)(3) of the Farm Security and Rural Investment Act of 2002, P.L. 107-171, 116 Stat. 299, May 13, 2002, struck former subclause (II) of this clause and made conforming amendments to clause (iv). For the text of former clause (iv), see p. 11-16 and 11-17 of Agricultural Commodity Laws (as of Dec. 29, 2000). Sec. 105 of P.L. 107-206, 116 Stat. 824, Aug. 2, 2002, amended clause (iv) by striking "subsection." and inserting "subsection, or to otherwise carry out the purposes of this subsection."

⁴¹⁶⁻²⁵ Reads "paragraph (5)(a)" in the original. It should probably be "paragraph (5)(A)".

(F)⁴¹⁶⁻²⁶ The provisions of sections 403(i) and 407(c) of the Agricultural Trade Development and Assistance Act of 1954 shall apply to donations, sales and barter of eligible commodities under this subsection.

The Secretary may approve the use of proceeds or services realized from the sale or barter of a commodity furnished under this subsection by a nonprofit voluntary agency, cooperative, or intergovernmental agency or organization to meet administrative expenses incurred in connection with activities undertaken under this subsection.⁴¹⁶⁻²⁷

(8)⁴¹⁶⁻²⁸ ADMINISTRATIVE PROVISIONS.—

(A) EXPEDITED PROCEDURES.—To the maximum extent practicable, expedited procedures shall be used in the implementation of this subsection.

(B) ESTIMATE OF COMMODITIES.—The Secretary shall publish in the Federal Register, not later than October 31 of each fiscal year, an estimate of the types and quantities of commodities and products that will be available under this section for the fiscal year.

(C) FINALIZATION OF AGREEMENTS.—The Secretary is encouraged to finalize program agreements under this section not later than December 31 of each fiscal year.

(D) REGULATIONS.—The Secretary shall be responsible for regulations governing sales and barter, and the use of foreign currency proceeds, under paragraph (7) of this subsection that will provide reasonable safeguards to prevent the occurrence of abuses in the conduct of activities provided for in paragraph (7).

(9)(A) Each recipient of commodities and products approved for sale or barter under paragraph (7) shall report to the Secretary information with respect to the items required to be included in the Secretary's report pursuant to clauses (i) through (iv) of subparagraph (B). Reports pursuant to this subparagraph shall be submitted in accordance with regulations of the Secretary. Such regulations shall require at least one report annually, to be submitted not later than December 31 following the end of the fiscal year in which the commodities and products are received; except that a report shall not be required with respect to fiscal year 1985.

(B) Not later than February 15, 1987, and annually thereafter, the Secretary shall report to the Congress on sales and barter, and use of foreign currency proceeds, under paragraph (7) during the preceding fiscal year. Such report shall include information on—

(i) the quantity of commodities furnished for such sale or barter;

⁴¹⁶⁻²⁶ Sec. 1514(5)(B) of the Food, Agriculture, Conservation, and Trade Act of 1990, P.L. 101-624, 104 Stat. 3662, Nov. 28, 1990, amended para. (7) by adding at the end thereof subpara. (F). Subpara. (F) was placed after subpara. (E) (vs. after the last sentence of para. (7)) to effectuate the probable intent of Congress. Indentation of subpara. (F) was so in original.

⁴¹⁶⁻²⁷ Sec. 264(1)(A)(ii) of the Federal Agriculture Improvement and Reform Act of 1996, P.L. 104-127, 110 Stat. 974, April 4, 1996, amended this sentence in its entirety. For the former text of the sentence, see p. 31-18 of Volume I—Domestic Agricultural Programs (as of Dec. 8, 1994).

⁴¹⁶⁻²⁸ Sec. 3201(b)(1) of the Farm Security and Rural Investment Act of 2002, P.L. 107-171, 116 Stat. 299, May 13, 2002, amended para. (8) by striking “(8)(A)” and all that follows through “(B) The Secretary” and inserting “(8)” and all that follows through “(D) REGULATIONS.—The Secretary shall”. For the text of former para. (8), see p. 11-17 of Agricultural Commodity Laws (as of Dec. 29, 2000).

(ii) the amount of funds (including dollar equivalents for foreign currencies) and value of services generated from such sales and barter in such fiscal year;

(iii) how such funds and services were used;

(iv) the amount of foreign currency proceeds that were used under agreements under subparagraph (D) of paragraph (7) in such fiscal year, and the percentage of the quantity of all commodities and products furnished under this subsection in such fiscal year such use represented;

(v) the Secretary's best estimate of the amount of foreign currency proceeds that will be used, under agreements under subparagraph (D) of paragraph (7), in the then current fiscal year and the next following fiscal year (if all requests for such use are agreed to), and the percentage that such estimated use represents of the quantity of all commodities and products that the Secretary estimates will be furnished under this subsection in each such fiscal year;

(vi) the effectiveness of such sales, barter, and use during such fiscal year in facilitating the distribution of commodities and products under this subsection;

(vii) the extent to which sales, barter, or uses—

(I) displace or interfere with commercial sales of United States agricultural commodities and products that otherwise would be made,

(II) affect usual marketings of the United States,

(III) disrupt world prices of agricultural commodities or normal patterns of trade with friendly countries, or

(IV) discourage local production and marketing of agricultural commodities in the countries in which commodities and products are distributed under this subsection; and

(viii) the Secretary's recommendations, if any, for changes to improve the conduct of sales, barter, or use activities under paragraph (7).

(10)⁴¹⁶⁻²⁹ SALE PROCEDURE.—In approving sales of commodities under this subsection, the Secretary shall follow the sale procedure described in section 403(l) of the Agricultural Trade Development and Assistance Act of 1954.

(11)⁴¹⁶⁻³⁰ REQUIREMENTS.—

(A) IN GENERAL.—Not later than 270 days after the date of enactment of this subparagraph, the Secretary shall review and, as necessary, make changes in regulations and internal procedures designed to streamline, improve, and clarify the application, approval, and implementation processes pertaining to agreements under this section.

(B) CONSIDERATIONS.—In conducting the review, the Secretary shall consider—

(i) revising procedures for submitting proposals;

(ii) developing criteria for program approval that separately address the objectives of the program;

⁴¹⁶⁻²⁹ Para. (10) added by sec. 3009(b)(1) of the Farm Security and Rural Investment Act of 2002, P.L. 107-171, 116 Stat. 283, May 13, 2002.

Previously, sec. 264(1)(C) of the Federal Agriculture Improvement and Reform Act of 1996, P.L. 104-127, 110 Stat. 974, April 4, 1996, amended subsec. (b) by striking former paras. (10), (11), and (12). For the text of former paras. (10), (11), and (12), see p. 31-19 through 31-21 of Volume I—Domestic Agricultural Programs (as of Dec. 8, 1994).

⁴¹⁶⁻³⁰ Para. (11) added by sec. 3201(b)(2) of the Farm Security and Rural Investment Act of 2002, P.L. 107-171, 116 Stat. 299, May 13, 2002. See footnote 416-29.

- (iii) pre-screening organizations and proposals to ensure that the minimum qualifications are met;
- (iv) implementing e-government initiatives and otherwise improving the efficiency of the proposal submission and approval processes;
- (v) upgrading information management systems;
- (vi) improving commodity and transportation procurement processes; and
- (vii) ensuring that evaluation and monitoring methods are sufficient.

(C) CONSULTATIONS.—Not later than 1 year after the date of enactment of this subparagraph, the Secretary shall consult with the Committee on Agriculture, and the Committee on International Relations, of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate on changes made in regulations and procedures under this paragraph.

[(c) ⁴¹⁶⁻³¹]

[(d) ⁴¹⁶⁻³²]

2. DONATIONS AND SALES OF AGRICULTURAL COMMODITIES TO POLAND

See also section 416(b)(7)(D) of the Agricultural Act of 1949 printed in section 1 of subpart B of this part of the compilation.

OMNIBUS TRADE AND COMPETITIVENESS ACT OF 1988

SEC. 2223. ²²²³⁻¹ [7 U.S.C. 1431 note] DONATION OF SURPLUS AGRICULTURAL COMMODITIES.

(a) AUTHORITY TO DONATE.—Notwithstanding any other provision of law, if the Secretary of Agriculture determines for each fiscal year that (1) a donation under this section would not limit the Secretary's ability to meet urgent humanitarian needs for agricultural commodities, and (2) such donation would not cause a reduction in the price of the same or similar agricultural commodities produced in Poland[,] ²²²³⁻² the Secretary of Agriculture shall donate, under the applicable provisions of section 416(b) of the Agricultural Act of 1949, for each of the fiscal years 1995 through 1999, ²²²³⁻³ 8,000 metric tons of uncommitted stocks of eligible com-

⁴¹⁶⁻³¹ Sec. 264(2) of the Federal Agriculture Improvement and Reform Act of 1996, P.L. 104-127, 110 Stat. 974, April 4, 1996, amended this sec. by striking subsec. (c). For the text of subsec. (c), see p. 31-21 of Volume I—Domestic Agricultural Programs (as of Dec. 8, 1994).

⁴¹⁶⁻³² Sec. 416(d), relating to the acquisition of strategic or other materials in exchange for commodities meeting the criteria specified in subsec. (a), was added by sec. 1129 of the Food Security Act of 1985, P.L. 99-198, 99 Stat. 1486, Dec. 23, 1985, and repealed by sec. 1575 of the Food, Agriculture, Conservation, and Trade Act of 1990, P.L. 101-624, 104 Stat. 3702, Nov. 28, 1990.

The Food for Peace Act of 1966, P.L. 89-808, 80 Stat. 1538, Nov. 11, 1966, deleted all references to foreign donations from sec. 416, effective Jan. 1, 1967.

²²²³⁻¹ P.L. 100-418, 102 Stat. 1336, Aug. 23, 1988.

²²²³⁻² Sec. 576(a)(1) of the Foreign Operations, Export Financing, and Related Programs Supplemental Appropriations Act, 1994, P.L. 103-306, 108 Stat. 1654, Aug. 23, 1994, amended subsec. (a) by inserting "if the Secretary of Agriculture determines for each fiscal year that (1) a donation under this section would not limit the Secretary's ability to meet urgent humanitarian needs for agricultural commodities, and (2) such donation would not cause a reduction in the price of the same or similar agricultural commodities produced in Poland" after "Notwithstanding any other provision of law."

²²²³⁻³ Sec. 576(a)(2) of the Foreign Operations, Export Financing, and Related Programs Supplemental Appropriations Act, 1994, P.L. 103-306, 108 Stat. 1654, Aug. 23, 1994,

Continued

modities of the Commodity Credit Corporation under an agreement with the Government of Poland that the Government of Poland will sell such commodities and that all the proceeds from such sales will be used by nongovernmental agencies for eligible activities in Poland described in section 416(b)(7)(D)(ii) of that Act (as amended by section 2225 of this Act) that have been approved, upon application, by the joint commission described in section 2226 and by the United States chief of diplomatic mission in Poland.

(b) DEFINITIONS.—For purposes of this section—

(1) the term “eligible commodities” has the same meaning as is given such term in section 416(b)(2) of the Agricultural Act of 1949 and, in addition, includes feed grains, soybeans, and soybean products;²²²³⁻⁴ and

(2) the term “nongovernmental agencies” includes nonprofit voluntary agencies, cooperatives, intergovernmental agencies such as the World Food Program, and other multilateral organizations.

SEC. 2224. [7 U.S.C. 1431 note] USE OF POLISH CURRENCIES.

(a) USE OF POLISH CURRENCIES.—Subject to subsection (b), non-convertible Polish currencies (zlotys) held by the United States on the date of enactment of this Act pursuant to an agreement with the Government of Poland under the Agricultural Trade Development and Assistance Act of 1954 which are not assets of the Commodity Credit Corporation shall be made available, to the extent and in such amounts as are provided in advance in appropriation Acts, for eligible activities in Poland described in section 416(b)(7)(D)(ii) of the Agricultural Act of 1949 (as amended by section 2225 of this Act) and approved, upon application, by the joint commission described in section 2226 and by the United States chief of diplomatic mission in Poland.

(b) AVAILABILITY OF CURRENCIES.—Currencies available under subsection (a) are currencies available after satisfaction of existing commitments to use such currencies for other purposes specified by law.

* * * * *

SEC. 2226.²²²⁶⁻¹ [7 U.S.C. 1431 note] JOINT COMMISSION

(a) ESTABLISHMENT.—The joint commission referred to in sections 2223 and 2224 and in section 416(b)(7)(D)(ii) of the Agricultural Act of 1949 (as amended by section 2225 of this Act) shall be established under an agreement between the United States Government, the Government of Poland, and nongovernmental agencies (as defined in section 2223) operating in Poland.

(b) MEMBERSHIP.—The joint commission shall be composed of—

(1) appropriate representatives of the Government of Poland;

(2) appropriate representatives of nongovernmental agencies which are parties to the agreement described in subsection (a); and

amended subsec. (a) by striking “1988 through 1992” and inserting in lieu thereof “1995 through 1999”.

²²²³⁻⁴ Sec. 576(b) of the Foreign Operations, Export Financing, and Related Programs Supplemental Appropriations Act, 1994, P.L. 103-306, 108 Stat. 1654, Aug. 23, 1994, amended para. (1) by inserting “, soybeans, and soybean products” after “feed grains”.

²²²⁶⁻¹ 102 Stat. 1337.

(3) representatives from the United States diplomatic mission in Poland, which may include a representative of the Foreign Agricultural Service.

**FOREIGN OPERATIONS, EXPORT FINANCING, AND RELATED
PROGRAMS APPROPRIATION ACT, FY 1989**

USE OF CERTAIN POLISH CURRENCIES

SEC. 583.⁵⁸³⁻¹ Up to the equivalent of \$500,000 of the non-convertible and convertible Polish currencies (after satisfaction of pre-existing commitments to use such currencies for other purposes specified by law) held by the United States which have been generated by the sale to Poland of United States agricultural products may be made available for the reconstruction, renovation, and maintenance of the Research Center on Jewish History and Culture of the Jagiellonian University of Krakow, Poland, established for the study of events related to the Holocaust in Poland: *Provided*, That such currencies shall be made available notwithstanding 31 U.S.C. 1306.

JOINT RESOLUTION OF OCTOBER 30, 1986

SEC. 146.¹⁴⁶⁻¹ Such amounts as may be necessary of the Polish currencies held by the United States which have been generated by the sale to Poland of surplus United States dairy products shall be available for construction and renovation projects to be undertaken in Poland under the auspices of the Charitable Commission of the Polish Catholic Episcopate for the benefit of handicapped and orphaned children. Such currencies may be utilized without regard to the requirements of section 1306 of title 31, United States Code, or any other provision of law.

**INTERNATIONAL SECURITY AND DEVELOPMENT COOPERATION
ACT OF 1981**

SEC. 709.⁷⁰⁹⁻¹ (a) Notwithstanding section 1415 of the Supplemental Appropriation Act, 1953, section 508 of the General Government Matters, Department of Commerce, and Related Agencies Appropriation Act, 1962, or any other provision of law, the currencies or credits received by the United States from the April 1981 sale and from the October 1981 sale of United States Government-held surplus dairy products to Poland shall, to such extent as may be provided in advance in an appropriation Act, be used by the President in Poland to serve United States interests, including use for activities of common benefit to the people of the United States and the people of Poland, such as joint programs in energy, agriculture, education, science, health, and culture, or for humanitarian activities.

(b) Notwithstanding any other provision of law, the availability or expenditure of such foreign currencies or credits shall not affect or reduce appropriations otherwise available for the purposes described in subsection (a).

⁵⁸³⁻¹ P.L. 100-461, 102 Stat. 2268-49, Oct. 1, 1988. A similar provision was contained in Sec. 581 of the Joint Res. of Dec. 22, 1987, P.L. 100-202, 101 Stat. 1329-181.

¹⁴⁶⁻¹ P.L. 99-500, 100 Stat. 1783-351. P.L. 99-591, 100 Stat. 3341-354.

⁷⁰⁹⁻¹ P.L. 97-113, 95 Stat. 1546, Dec. 29, 1981.

3. ORDERLY LIQUIDATION OF CCC STOCKS

AGRICULTURAL ACT OF 1956

[TITLE II—SURPLUS DISPOSAL

[PROGRAM OF ORDERLY LIQUIDATION

[SEC. 201.²⁰¹⁻¹ [7 U.S.C. 1851(a)]]

[SURPLUS DISPOSAL ADMINISTRATOR

[SEC. 207.²⁰⁷⁻¹ [7 U.S.C. 1857]]

4. DONATION FOR MARKET DEVELOPMENT

CRITICAL AGRICULTURAL MATERIALS ACT

SEC. 5. [7 U.S.C. 178c] (a) * * *

(b)⁵⁻¹ The Secretary of Agriculture shall conduct, sponsor, promote, and coordinate basic and applied research, technology development, and technology transfer leading to effective and economical methods for large-scale culturing of plantations and the extraction of latex from Parthenium or other hydrocarbon-containing plants, and for the development of other critical agricultural materials from native agricultural crops having strategic and industrial importance. Such research shall include, but not be limited to—

* * * * *

(9)⁵⁻² studying the economic feasibility of developing other native agricultural crops (in addition to Parthenium and other hydrocarbon-containing plants) that would supply critical agricultural materials for strategic and industrial purposes, carrying out demonstration projects to promote the development or commercialization of such crops (including projects designed to expand domestic or foreign markets for such crops), and, to the extent appropriate, carrying out research activities with respect to such crops in the manner specified in paragraphs (1) through (8).

* * * * *

(d)⁵⁻³ Notwithstanding any other provision of law, in carrying out a demonstration project referred to in subsection (b)(9), the Secretary may—

(1) enter into a contract or cooperative agreement with, or provide a grant to, any person, or public or private agency or organization, to participate in, carry out, support, or stimulate such project;

²⁰¹⁻¹ Sec. 201 was repealed by sec. 274 of the Federal Agriculture Improvement and Reform Act of 1996, P.L. 104-127, 110 Stat. 976, April 4, 1996. For the text of sec. 201, see p. 3-12 of Agricultural Trade Laws Vol. (as of Dec. 8, 1994).

²⁰⁷⁻¹ Sec. 207 was repealed by sec. 274 of the Federal Agriculture Improvement and Reform Act of 1996, P.L. 104-127, 110 Stat. 976, April 4, 1996. For the text of sec. 207, see p. 3-12 of Agricultural Trade Laws Vol. (as of Dec. 8, 1994).

⁵⁻¹ P.L. 95-592, 92 Stat. 2531, Nov. 4, 1978, as amended by P.L. 98-284, 98 Stat. 182, May 16, 1984.

⁵⁻² Section 1439(a) of the Food Security Act of 1985, P.L. 99-198, 99 Stat. 1559, Dec. 23, 1985, inserted in para. (9) the following: “, carrying out demonstration projects to promote the development or commercialization of such crops (including projects designed to expand domestic or foreign markets for such crops),” after “purposes,”.

⁵⁻³ Section 1439(b) of the Food Security Act of 1985, P.L. 99-198, 99 Stat. 1559, Dec. 23, 1985, added subsection (d) at the end of section 5.

(2) make available for purposes of clause (1) agricultural commodities or the products thereof acquired by the Commodity Credit Corporation under price support operations conducted by the Corporation; or

(3) use any funds appropriated pursuant to section 16(a), or any funds provided by any person, or public or private agency or organization, to carry out such project or reimburse the Commodity Credit Corporation for agricultural commodities or products that are utilized in connection with such project.